is not reflected on the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR).

(2) "Communications intercepting devices" are electronic, mechanical, or other devices that can be used for interception of wire, oral, or electronic communications if their design renders them primarily useful for surreptitious listening even though they may also have innocent uses. A device is not restricted merely because it is small or may be adapted to wiretapping or eavesdropping. Some examples of devices to which these restrictions apply are: the martini olive transmitter; the infinity transmitter; the spike mike; and the disguised microphone appearing as a wristwatch, cufflink, or cigarette pack; etc. The restrictions do not apply to devices such as the parabolic microphone or other directional microphones ordinarily used by broadcasters at sports events, since these devices are not primarily useful for surreptitious listening.

(b) *Licensing policy.* (1) License applications, except for those applications for which a license is required for both SL and AT reasons, will generally be approved for exports or reexports requiring a license for SL reasons when the exporter or reexporter is:

(i) A provider of wire or electronic communication services or an officer, agent, or employee of, or person under contract with such a provider, in the normal course of the business of providing that wire or electronic communication service; or

(ii) An officer, agent, or employee of, or a person under contract with, the United States, one of the 50 States, or a political subdivision thereof, when engaged in the normal course of government activities.

NOTE TO PARAGRAPH (b)(1): For SL reasons, license applications will generally be denied to countries that are subject to controls for AT reasons.

NOTE TO PARAGRAPH (b)(1)(i): The normal course of the business of providing a wire or electronic communications service includes any activity which is a necessary incident to the rendition of the service or to the protection of the rights and property of the provider of that service.

(2) Other license applications will generally be denied for exports or reexports requiring a license for SL reasons.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications involving exports and reexports of communications interception devices.

(d) *U.S. controls.* Controls on items classified under ECCNs 5A980, 5D980, and 5E980 are maintained by the United States government for foreign policy purposes.

[61 FR 12786, Mar. 25, 1996, as amended at 71 FR 67036, Nov. 20, 2006; 77 FR 39368, July 2, 2012; 78 FR 37382, June 20, 2013]

§ 742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.

(a) *License requirement.* Licenses are required for all destinations, except Canada, for ECCNs having an "SI" under the "Reason for Control" paragraph. These items include hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1 through a.8, .h,.i and .j, and related controls.

(b) *Licensing policy.* Pursuant to section 6 of the Export Administration Act of 1979, as amended, foreign policy controls apply to technology required for the development, production or overhaul of commercial aircraft engines controlled by ECCN 9E003a.1 through a.8, .h,.i, and .j, and related controls. These controls supplement the national security controls that apply to these items. Applications for export and reexport to all destinations will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. The following factors are among those that will be considered to determine what action will be taken on license applications:

(1) The country of destination;

(2) The ultimate end-user(s);

(3) The technology involved;

(4) The specific nature of the end-use(s); and

(5) The types of assurance against unauthorized use or diversion that are given in a particular case.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this § 742.14.

(d) [Reserved]

§ 742.15 Encryption items.

Encryption items can be used to maintain the secrecy of information, and thereby may be used by persons abroad to harm U.S. national security, foreign policy and law enforcement interests. The United States has a critical interest in ensuring that important and sensitive information of the public and private sector is protected. Consistent with our international obligations as a member of the Wassenaar Arrangement, the United States has a responsibility to maintain control over the export and reexport of encryption items. As the President indicated in Executive Order 13026 and in his Memorandum of November 15, 1996, exports and reexports of encryption software, like exports and reexports of encryption hardware, are controlled because of this functional capacity to encrypt information, and not because of any informational or theoretical value that such software may reflect, contain, or represent, or that its export or reexport may convey to others abroad. For this reason, export controls on encryption software are distinguished from controls on other software regulated under the EAR.

(a) *Licensing requirements and policy*— (1) *Licensing requirements.* A license is required to export or reexport encryption items ("EI") classified under 5A002.a.1, .a.2, .a.5, .a.6, and .b; 5D002.a, .c.1 or .d for equipment and "software" controlled for EI reasons in ECCNs 5A002 or 5D002; or 5E002 for "technology" for the "development," "production," or "use" of commodities or "software" controlled for EI reasons in ECCNs 5A002 or 5D002 to all destinations, except Canada. Refer to part 740 of the EAR for license exceptions that apply to certain encryption items, and to § 772.1 of the EAR for definitions of encryption items and terms. Most encryption items may be exported under the provisions of License Excep-

tion ENC set forth in § 740.17 of the EAR. Before submitting a license application, please review License Exception ENC to determine whether this license exception is available for your item or transaction. For exports and reexports of encryption items that are not eligible for a license exception, exporters must submit an application to obtain authorization under a license or an Encryption Licensing Arrangement.

(2) *Licensing policy.* Applications will be reviewed on a case-by-case basis by BIS, in conjunction with other agencies, to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. Encryption Licensing Arrangements (ELAs) may be authorized for exports and reexports of unlimited quantities of encryption commodities and software to national or federal government bureaucratic agencies for civil use, and to state, provincial or local governments, in all destinations, except countries listed in Country Group E:1 of Supplement No. 1 to part 740. ELAs are valid for four years and may require post-export reporting or pre-shipment notification. Applicants seeking authorization for Encryption Licensing Arrangements must specify the sales territory and class of end-user on their license applications.

NOTE TO PARAGRAPH (a): Pursuant to Note 3 to Category 5 Part 2 of the Commerce Control List in Supplement No. 1 to Part 774, mass market encryption commodities and software may be released from "EI" and "NS" controls by submitting an encryption registration in accord with § 742.15(b) of the EAR. Once an encryption registration has been submitted to BIS and accepted in SNAP–R as indicated by the issuance of an Encryption Registration Number (ERN), then the commodities and software are classified under ECCNs 5A992 and 5D992 respectively and are no longer subject to "EI" and "NS" controls.

(b) *Encryption registration required, with classification request or self-classification report, for mass market encryption commodities, software and components with encryption exceeding 64 bits.* To be eligible for export and reexport under this paragraph (b), encryption commodities, software and components must qualify for mass market treatment under the criteria in